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E.O. 12958: DECL: 1.6 FIVE YEARS AFTER CLOSURE OF ICTY

TAGS: PREL PHUM BK HR SR NL ICTY

SUBJECT: ICTY: MILOSEVIC REVISITS HISTORY IN OPENING OF
DEFENSE CASE

Classified By: Legal Counselor Clifton M. Johnson per reasons 1.5(b)-(d)
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¶1. (C) Summary. After a series of health-related delays, Slobodan Milosevic opened his defense on August 31, 2004, at the International Criminal Tribunal for the former Yugoslavia (ICTY) with a predictable, political, often dull, and highly skewed survey of Balkans history. Milosevic repeatedly blamed Germany and the Vatican, and to a lesser degree the United States, for instigating the break-up of Yugoslavia and characterized Serb conduct as a fight against secessionists, Islamic fundamentalists, neo-Nazis, and terrorists. Milosevic's tired and unreconstructed presentation had little rhetorical resonance, provided only the barest substantive legal defense to the charges against him, and tested the patience of the judges. Milosevic is expected to call his first witness, in what is shaping up as an almost exclusively political defense, on September 7. A decision today imposing legal defense counsel on him is being reported septel. End summary.

¶2. (C) Milosevic launched his long-anticipated defense at the ICTY with a rehash of the same political themes he flagged during his opening statements in 2002. He said that the prosecution had presented an "untruthful, distorted picture" of what had happened in the Balkans that was a "tireless distortion of history" intended to shield from responsibility "those who are truly responsible." The essential fact that needed to be understood, he said, was that these events told the story of the "violent destruction of a European state." This destruction was a "crime against peace" where mostly Serbs were displaced from their homes and a series of war crimes committed against them. The war was "instigated and supported by" Germany, the Vatican, and the United States, whose policies promoted and encouraged the secession of Croatia and other republics. These countries "supported a totalitarian chauvinist elite, terrorist(s), Islamic fundamentalists, (and) neo-Nazis." "In the face of this armed rebellion" Yugoslav authorities were "duty-bound to take all necessary measures in order to restore law and order."

¶3. (SBU) Focusing the majority of his statement on events in Croatia, Milosevic accused Croat "paramilitaries," "neo-Nazis", and "terrorists," of starting a war against the JNA in July 1991 and committing ethnic cleansing and other abuses against the local Serb population. Milosevic then described Bosniak leader Izetbegovic's alliance with the Croats and, developing his theme of a battle against Islamic extremism, noted his Islamic links and referred to the arrival of Hezbollah in Sarajevo armed with CIA supplied arms from Afghanistan. These forces were further supported by "allegedly retired American officers" (e.g. MPRI) who instructed the Croat army. In the course of this military campaign against the Serbs, "five to six times more poison (e.g., rounds containing depleted uranium) was dropped (on Serbia) than was the case in Hiroshima."

¶4. (SBU) Under pressure from "Germany and the Vatican," other European states "prematurely" recognized the break-away republics as states. Recognition opened a "Pandora's box" that led to civil war, the expulsion of Serbia from the UN, and its diplomatic isolation. With these actions, "the way was opened for craziness and lawlessness" and "it was difficult to stop the blood stained process." By promoting the break-up of Yugoslavia, "Germany" achieve(d) what it did not achieve through two world wars."

¶5. (SBU) Milosevic made nearly two dozen references to Hitler and Nazis in describing Croat and German officials and policies. He characterized the "myth of Greater Serbia" as the central fear of Germany and then traced the purported history behind this "myth." This notion of a "Greater Serbia" is a "sheer lie" and remains a "smokescreen to conceal their own crimes and "evil deeds." In one of his few references to the charges against him, he said that the "myth of a Greater Serbia" took a central place in this false indictment against me." The Tribunal, he said, is just chasing "specters."

¶6. (SBU) Milosevic's fixation with "the Vatican" was

another recurring theme. He described the Vatican as motivated by a struggle against orthodoxy. According to Milosevic, "Serbia was to be destroyed and invaded to strengthen the Austro-Hungarian monarchy as a stronghold of Catholicism" and, in particular, to serve as its basis to expand to the East."

¶7. (SBU) Milosevic's discourse on U.S. motivations in the Balkan wars was more prosaic. Smaller ineffective former Yugoslav states made it easier for the United States to impose its "economic, political, and in particular, military presence in Europe." This plot was all part of U.S. efforts to impose a "new world order" and "the transformation of the world to a corporation society under the leadership of the World Bank and the United States, where robbery would be the main motive." President Clinton was involved in "dangerous liaisons with Islamic fundamentalists, and they include Hezbollah, Al Qaeda, the KLA terrorists in Kosovo, etc." in carrying out this purported policy. Once the EU opted at the end of 1991 to support the independence of the former republics, they all "became satellites of the United States."

¶8. (SBU) Milosevic's discussion of Kosovo explored several themes. First, Milosevic tried to show that the Kosovars lived quite well under Serb authority (e.g. enjoying "considerable political and economic freedom") in comparison with conditions in Albania. Second, the withdrawal of the Serb authorities in Kosovo led to a multitude of "acts of terrorism" against Serbs by the KLA, including the destruction of "150 churches." The "pogrom" in Kosovo was the result of the collaboration between UN forces, the ICTY, and Albanian terrorists. This made the ICTY part of a "joint criminal enterprise." Milosevic alleged that the "terrorist KLA" was "armed and trained" with the assistance of "Germany, the United States, Switzerland, and " some Islamic countries." Also implicated in KLA support is British intelligence, Turkey, and the "Albanian drug mafia." Curiously, after cataloging abuses committed by the KLA, Milosevic, noted that "in addition to FAS, the State Department is the only institution in the U.S. that deals with the question of terrorist organizations seriously." Truer to form he then referred to the "partnership between Clinton and the KLA" and described meetings between former U.S. officials and KLA members. This alliance between the United States, NATO, and the KLA led to the Racak massacre which, in Milosevic's version of history, was a media event constructed to provide a pretext for "NATO aggression." In reviewing the subsequent bombing campaign, Milosevic repeated old charges that NATO forces committed numerous war crimes involving the use of cluster bombs and depleted uranium rounds. He added that by targeting chemical-related facilities, "a chemical war was also waged against Serbia" by NATO.

¶9. (SBU) Milosevic diverged briefly from his history lesson to reiterate his attack on the legitimacy of the Tribunal, commenting that "it is illusory to look for logic in a staged process." He said the Tribunal represents "serious discrimination" against one country and that only the International Court of Justice could provide an authoritative view on the Tribunal's legitimacy. The Tribunal was "neither international nor independent." He described it as an idea of former German FM Kinkel that was then taken over by former Secretary Albright and championed by the Soros Foundation and NGO's like Coalition for International Justice. Milosevic alleged that there were regular communications between SHAPE and the Chief Prosecutor, confirming that "it's a NATO institution." It was funded by NATO, Soros, Islamic countries, and other "dark sources."

¶10. (C) The legal content of Milosevic's defense was relegated to a brief discussion at the end of his presentation where he challenged the validity of the "joint criminal enterprise" theory underlying the prosecution and described it as a "nebulous construction" used to circumvent the inability of the prosecution to prove criminal intent. Referring to Kosovo, he said that the prosecution had failed to produce any orders to commit crimes or prove that any of the generals involved had "any knowledge about anything that could have constituted a crime before these crimes actually happened." Milosevic also referred to the testimony of General Vasiljevic to demonstrate that he had "personally insisted that all perpetrators should be arrested." "What else could the executive government have done ... but to categorically insist on the Prosecution of all perpetrators of crimes ...?" Milosevic asked rhetorically. Finally focusing on the key vulnerability in the prosecution's case he argued that "Throughout these two years you have not presented a shred of evidence or a single testimony that might indicate a link between a crime that was committed or a criminal with the troop commanders, the generals you have indicted, or the political leadership of Serbia, or me personally. On the contrary you have evidence that we did our utmost to prevent crimes." Returning, unhelpfully, to his political case, Milosevic summed up his defense by stating that the chronology of events, which he would

demonstrate through witnesses, indicates: "First, that what the Serbs did were reactions to what the Muslim side did, that is to say violations of the constitutional rights of the Serbs. And this, what the Serbs did, was only making up for what the other two, the Muslims and the Croats, took away from them."

¶11. (C) Milosevic appeared robust and healthy throughout his 5.5 hour presentation, which extended into September 1. He made extensive use of typewritten notes and quotations which he linked together in his oral presentation. Milosevic's argument was largely built on fringe sources that he invariably described as authoritative or senior foreign officials whose statements were either taken out of context or misquoted. (Note: Milosevic, for example, alleged that President Clinton in his March 24, 1999, address to the Nation on the eve of the NATO bombing campaign had said The Serbs did not cause only World War I. Without them there would have been no Holocaust." In fact, Clinton said: "Sarajevo, the capital of neighboring Bosnia, is where World War I began. World War II and the Holocaust engulfed this region." Embassy legal officers have passed the accurate text to lead Prosecutor Nice who today informed the Court that Milosevic had provided a "complete misquotation." End note.) Milosevic interspersed these statements with his own chronicle, blurring historical fact with interpretation. This approach seemed to have little resonance with the Chamber which admonished him for making a presentation whose relevance was not clear, asked for details about his sources, and expressed irritation at his "offensive" and "flagrant insult" that the Tribunal was participating in a joint criminal enterprise against him.

¶12. (C) Comment. Milosevic's propagandistic history of the Balkan wars and its portrayal of the Serbs as being victimized by outside forces was fairly predictable. More surprising was how quickly the initial excitement at hearing the long awaited defense turned to fatigue and disinterest. After two hours of his presentation, Judge Robinson, various clerks, and spectators were observed nodding off. The press gallery, which had been filled to capacity at the opening, dwindled as day wore on and the spectator gallery shrank to under two dozen.. While Milosevic's presentation was animated and forceful, it lacked new information and a connection to the charges at hand that would have made it more compelling. Instead of addressing and explaining his role in the events, Milosevic painted his story in broad brush strokes reaching back to the 19th century and squandering time on such issues as the "false accusations" of Serb involvement in the assassination of Arch Duke Ferdinand.

Indeed, by taking this sweeping declamatory approach Milosevic may have done little more than reinforce the Prosecution's portrayal of him as the overarching and authoritative figure in the Balkans drama. End comment.

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